

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MATTHEW OSTERHOUDT,)	
)	
Claimant,)	IC 2001-520365
)	
v.)	
)	
QUALITY TRUSS & LUMBER, INC.,)	ORDER DENYING
)	RECONSIDERATION
Employer,)	
)	
and)	
)	Filed December 21, 2007
IDAHO STATE INSURANCE FUND,)	
)	
Surety,)	
Defendants.)	
_____)	

On October 31, 2007, Claimant timely filed, pursuant to Idaho Code § 72-718, a motion and supporting memorandum to reconsider the Commission's Order dated October 15, 2007. Defendants responded on November 13, 2007. Claimant did not file a reply.

In his motion, Claimant requests the Commission to reconsider solely the portion of the Order regarding the apportionment of permanent partial impairment and asks that the Commission reverse its determination and find no apportionment. Claimant argues that the Commission erroneously relied on Dr. Montalbano's impairment rating because he allegedly lacked experience in impairment rating, his testimony indicated no pre-existing impairment rating, and his opinion was in direct contradiction to the opinions of two other doctors.

In response, Defendants contend that Claimant's pre-existing back condition is fully supported by Dr. Montalbano. The record further supports the determination of apportionment by past worker's compensation claims made by Claimant for the injury at issue and through

contemporaneous medical records indicating pre-existing back complaints and a pre-existing back condition.

In his request, Claimant essentially asks the Commission to re-evaluate the doctors' testimony and any related exhibits. Claimant has failed to provide any new facts or legal argument in support of his request. "It is axiomatic that a claimant must present to the Commission new reasons factually and legally to support a hearing on [his] Motion for Rehearing/Reconsideration rather than rehashing evidence previously presented." *Curtis v. M.H. King Co.*, 142 Idaho 383, 388, 128 P.3d 920, 925, (2005). Here, Claimant references facts and arguments already presented, examined, and considered in the initial action. The record supports the Commission's decision. As such, there is no justification to warrant a reconsideration of the order.

Based upon the foregoing reasons, Claimant's Motion for Reconsideration should be, and is hereby, DENIED.

DATED this __21st__ day of __December____2007.

INDUSTRIAL COMMISSION

____/s/_____
James F. Kile, Chairman

____/s/_____
R. D. Maynard, Commissioner

____/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December 2007, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following:

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_____/s/_____
